

EXHIBIT 2

² *United States v. Arkansas*, No. 4:09-cv-33 (E.D. Ark. filed Jan. 16, 2009); *United States v. Arkansas*, No. 4:10-cv-327 (E.D. Ark. filed May 6, 2010); *United States v. Georgia*, No. 1:10-cv-249 (N.D. Ga. filed Jan. 28, 2010); *United States v. Delaware*, No. 1:11-cv-591 (D. Del. filed July 6, 2011); *United States v. Louisiana*, No. 3:18-cv-608 (M.D. La. filed June 6, 2018); *United States v. New York*, No. 1:13-cv-4165 (E.D.N.Y. filed July 23, 2013); *United States v. North Carolina*, No. 5:12-cv-557 (E.D.N.C. filed Aug. 23, 2012); *United States v. Rhode Island*, No. 1:13-cv-442 (D.R.I. filed June 13, 2013); *United States v. Rhode Island*, No. 1:14-cv-175 (D.R.I. filed Apr. 8, 2014); *United States v. Virginia*, No. 3:12-cv-059 (E.D. Va. filed Jan. 26, 2012).

consent decrees or settlement agreements, except for the suits against Arkansas. In addition, the United States filed suit as a plaintiff-intervenor against Oregon and New Hampshire in cases initiated by private plaintiffs.³ Those cases were resolved with court-enforceable settlement agreements following contested litigation. The United States is currently litigating Title II integration mandate suits against Georgia and Florida, and against Texas as a plaintiff-intervenor in a case brought by private plaintiffs.⁴

2. The United States has used statistical sampling similar to the Clinical Review in this case in other integration mandate cases that reached the expert discovery stage: *United States v. Texas*, No. 5:10-cv-1025 (W.D. Tex.) (awaiting judgment following 2018 bench trial), and *United States v. Oregon*, No. 3:12-cv-138 (D. Or.) (case dismissed on August 12, 2022, following State's compliance with settlement agreement). Private plaintiffs conducted a similar clinical review in a case, joined by the United States as plaintiff-intervenor, against New Hampshire. See *Kenneth R. v. Hassan*, 293 F.R.D. 254, 261-262 (D.N.H. 2013) (discussing experts' client review).

3. This action against Mississippi is the only ADA Title II case litigated by the United States in which the defendant opposed monitoring as a component of a remedy. Courts have, however, imposed monitoring over the objection of a defendant in other cases litigated by the Civil Rights Division. See, e.g., *Melendres v. Maricopa Cnty.*, 897 F.3d 1217, 1221-1223 (9th Cir. 2018) (affirming, in an unconstitutional policing case where the United States was a plaintiff-intervenor, injunctive relief that included a court-appointed monitor); *United States v. Town of Colo. City*, No. 3:12-cv-8123, 2017 U.S. Dist. LEXIS 59220, at *22 (D. Ariz. Apr. 18, 2017) (determining that "[e]ngagement of an independent monitor * * * for purposes of assessing compliance with the court's injunction and the requirements of the Fair Housing Act is * * * both appropriate and necessary"); *United States v. City of New York*, No. 07-cv-2067, 2011 U.S. Dist. LEXIS 141117, at *6 (E.D.N.Y. Dec. 8, 2011) (ordering a monitor to ensure compliance with permanent injunction in Title VII suit), aff'd, 717 F.3d 72, 97, 99 (2d Cir. 2013) (affirming remedial provisions as modified, including monitoring, "to put the FDNY on a course toward future compliance with Title VII").

4. At the time that the district court issued the remedial and monitoring orders in 2021, the court had made no finding that Mississippi had achieved compliance with Title II during the period since the court issued its 2019 liability determination. As the Special Master reported: "[D]ata on community service performance is not yet adequate to assess performance or to allow the Court to determine if the requirements of the ADA are being met." ROA.4238. The district court agreed with the Special Master's assessment and adopted his recommendations in full. ROA.4278. The court specifically noted that Dr. Hogan's plan recognized that "the trial record

³ *United States v. Oregon*, No. 3:12-cv-138 (D. Or. U.S. intervenor complaint filed Mar. 27, 2013); *United States v. New Hampshire*, No. 1:12-cv-53 (D.N.H. U.S. intervenor complaint filed Mar. 27, 2012).

⁴ *United States v. Georgia*, No. 1:16-cv-3088 (N.D. Ga. filed Aug. 23, 2016); *United States v. Florida*, No. 13-cv-61576 (S.D. Fla. filed July 22, 2013); *United States v. Texas*, No. 5:10-cv-1025 (W.D. Tex. U.S. intervenor complaint filed June 22, 2011).

